1981 No. 193

FOOD AND DRUGS

Composition and Labelling

Miscellaneous Additives in Food Regulations (Northern Ireland) 1981

Made	*10th June 1981*
Coming into operation . . .	*22nd July 1981*

The Department of Health and Social Services(**a**) in exercise of the powers conferred on it by sections 4, 7, 68 and 68(A)(**b**) of the Food and Drugs Act (Northern Ireland) 1958(**c**) and of every other power enabling it in that behalf and after consultation with such organisations as appear to it to be representative of interests substantially affected by these regulations, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Miscellaneous Additives in Food Regulations (Northern Ireland) 1981 and shall come into operation on 22nd July 1981.

Interpretation

2.—(1) In these regulations—

"the Act" means the Food and Drugs Act (Northern Ireland) 1958;

"acid" means—

(*a*) any substance which is capable, and generally used for the purpose, of increasing the acidity of a food,

(*b*) nicotinic acid,

and, in each case, includes the ammonium, sodium, potassium and calcium salts of such substance;

"anti-caking agent" means any substance which is capable of reducing the tendency of individual particles of food to adhere to one another or of improving their flow characteristics;

"anti-foaming agent" means any substance which is capable of preventing or dispersing a foam;

"appropriate designation" means, as respects any permitted miscellaneous additive, a name or description or a name and description sufficiently specific, in each case, to indicate to an intending purchaser the true nature of the permitted miscellaneous additive to which it is applied;

"base" means any substance which is capable, and generally used for the purpose, of increasing the alkalinity of a food;

"buffer" means any substance which is capable, and generally used for the purpose, of altering and controlling the acidity or alkalinity of a food;

(**a**) *See* S.R. & O. (N.I.) 1964 No. 205 art. 5 and Sch. 2 Part 1 and 1973 c. 36 s. 40 and Sch. 5 para. 8
(**b**) Added by S.R. & O. (N.I.) 1972 No. 363
(**c**) 1958 c. 27 (N.I.)

"chocolate confectionery" has the meaning assigned to it by the Labelling of Food Regulations (Northern Ireland) 1970(**a**);

"chocolate product" has the meaning assigned to it by the Cocoa and Chocolate Products Regulations (Northern Ireland) 1976(**b**);

"container" includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

"European Pharmacopoeia Volume I, 1969" and "European Pharmacopoeia Volume II, 1971" mean respectively Volume I of the European Pharmacopoeia published in 1969 and Volume II of the European Pharmacopoeia published in 1971, in each case by Maisonneuve SA, 57-Sainte-Ruffine, France under the direction of the Council of Europe;

"firming agent" means any substance which is capable of making or keeping tissues of fruit or vegetables firm or crisp;

"food" has the same meaning as in the Act, except that it is limited to food intended for sale for human consumption;

"Food Chemicals Codex 1972" means the edition of the Food Chemicals Codex published in 1972 by the National Academy of Sciences-National Research Council, Washington DC, United States of America;

"glazing agent" means any substance, other than a mineral hydrocarbon, which, when applied to the external surfaces of food, is capable of imparting a shiny appearance or of providing a protective coating;

"humectant" means any substance which is capable of off-setting wholly or partially the effect on a food of humidity in the atmosphere to which the food is exposed;

"liquid freezant" means any liquid or any liquefiable gas, other than air, which is capable of converting food into a frozen state;

"mineral hydrocarbon" has the meaning assigned to it by the Mineral Hydrocarbons in Food Regulations (Northern Ireland) 1966(**c**);

"miscellaneous additive" means any acid, anti-caking agent, anti-foaming agent, base, buffer, firming agent, glazing agent, humectant, liquid freezant, packaging gas, propellent, release agent or sequestrant, but does not include—

(*a*) any natural food substance,

(*b*) any permitted antioxidant,

(*c*) any permitted artificial sweetener,

(*d*) any permitted bleaching agent,

(*e*) any permitted colouring matter,

(*f*) any permitted emulsifier,

(*g*) any permitted improving agent,

(*h*) any permitted preservative,

(*j*) any permitted solvent,

(*k*) any permitted stabiliser,

(*l*) starches, whether modified or not,

(*m*) caseinates,

(*n*) proteins, protein concentrates and protein hydrolysates,

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(**a**) S.R. & O. (N.I.) 1970 No. 80; the relevant amending regulation is S.R. 1976 No. 183
(**b**) S.R. 1976 No. 183
(**c**) S.R. & O. (N.I.) 1966 No. 200

(*o*) common salt (sodium chloride),

(*p*) normal straight chain fatty acids derived from food fats;

"natural food substance" means any substance, suitable for use as food and commonly used as food, which is wholly a natural product, whether or not that substance has been subjected to any process or treatment and includes malt extract and glucose syrup;

"packaging gas" means any gas, other than air, introduced into a container before, during or after the placing of food in that container;

"permitted antioxidant" means any antioxidant in so far as its use is permitted by the Antioxidants in Food Regulations (Northern Ireland) 1978(**a**);

"permitted artificial sweetener" means any artificial sweetener in so far as its use is permitted by the Artificial Sweeteners in Food Regulations (Northern Ireland) 1969(**b**);

"permitted bleaching agent" means any bleaching agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964(**c**);

"permitted colouring matter" means any colouring matter in so far as its use is permitted by the Colouring Matter in Food Regulations (Northern Ireland) 1973(**d**);

"permitted emulsifier" means any emulsifier in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1981(**e**);

"permitted improving agent" means any improving agent in so far as its use is permitted by the Bread and Flour Regulations (Northern Ireland) 1964;

"permitted miscellaneous additive" means any miscellaneous additive specified in Part I of Schedule 1 which satisfies the specific purity criteria in relation to that additive specified or referred to in Part II of that Schedule and, so far as is not otherwise provided by any such specific purity criteria, satisfies the general purity criteria specified in Part III of that Schedule, or any combination of two or more such additives;

"permitted preservative" means any preservative in so far as its use is permitted by the Preservatives in Food Regulations (Northern Ireland) 1980(**f**);

"permitted solvent" means any solvent in so far as its use is permitted by the Solvents in Food Regulations (Northern Ireland) 1967(**g**);

"permitted stabiliser" means any stabiliser in so far as its use is permitted by the Emulsifiers and Stabilisers in Food Regulations (Northern Ireland) 1981;

"propellent" means any liquid or any gas, other than air, which is capable of expelling food from a container;

"release agent" means any substance, other than a mineral hydrocarbon, which facilitates the ready separation of food from surfaces with which it may come in contact during the manufacture or conveyance but does not include any substance or material which forms an integral part of machinery or conveyor belts or food containers, or silicone resins baked on to baking tins;

"sell" includes offer or expose for sale or have in possession for sale;

"sequestrant" means any substance which is capable of complexing with metallic ions;

(**a**) S.R. 1978 No. 112, amended by S.R. 1981 No. 191
(**b**) S.R. & O. (N.I.) 1969 No. 346
(**c**) S.R. & O. (N.I.) 1964 No. 172; the relevant amending regulation is S.R. & O. (N.I.) 1972 No. 275
(**d**) S.R. & O. (N.I.) 1973 No. 466; the relevant amending regulations are S.R. 1975 No. 283, S.R. 1976 No. 382, S.R. 1979 No. 49
(**e**) S.R. 1981 No. 194
(**f**) S.R. 1980 No. 28, amended by S.R. 1980 No. 380
(**g**) S.R. & O. (N.I.) 1967 No. 282, amended by S.R. 1981 No. 192

"specified food" means any food of a description specified in column 1 of Schedule 2;

"sugar confectionery" has the meaning assigned to it by the Labelling of Food Regulations (Northern Ireland) 1970.

(2) All proportions mentioned in these regulations are proportions calculated by weight of the product as sold.

(3) Any reference in these regulations to a label borne on a container shall be construed as including a reference to any legible marking on the container however effected.

(4) For the purposes of these regulations, the supply of food, otherwise than by sale, at, in or from any place where food is supplied in the course of a business shall be deemed to be a sale of that food.

Exemptions

3. The provisions of these regulations shall not apply to food having any miscellaneous additive in it or on it, or to any miscellaneous additive, intended at the time of sale, for exportation to any place outside the United Kingdom.

Sale, etc., of food containing miscellaneous additives

4.—(1) Subject to paragraph (2) no food which is sold shall have in it or on it any added miscellaneous additive other than a permitted miscellaneous additive.

(2) Save as hereinafter provided, no food which is sold shall have in it or on it any added permitted miscellaneous additive specified in column 2 of Schedule 2:

Provided that—

(*a*) any specified food may have in it or on it any such permitted miscellaneous additive of the description and in the proportion specified in relation thereto in columns 2 and 3 respectively of Schedule 2;

(*b*) any food containing as an added ingredient any specified food may contain any such permitted miscellaneous additive of the description specified for, and in the amount appropriate to the quantity of, such specified food in accordance with the preceding sub-paragraph of this proviso.

(3) A person shall not sell any food which does not comply with this regulation.

Sale, advertisement and labelling of miscellaneous additives

5.—(1) A person shall not sell or advertise for sale any miscellaneous additive (including any miscellaneous additive with which any other substance has been mixed) for use as an ingredient in the preparation of food unless such miscellaneous additive is a permitted miscellaneous additive.

(2) A person shall not sell any permitted miscellaneous additive (including any permitted miscellaneous additive with which any other substance has been mixed) for use as an ingredient in the preparation of food except in a container bearing a label in accordance with the requirements of Schedule 3.

Condemnation of food

6. Where any food is certified by a public analyst as being food which it is an offence against regulation 4 to sell, that food may be treated for the purposes of section 9 of the Act (under which food may be seized and destroyed on the order of a justice of the peace) as being unfit for human consumption.

Penalties and enforcement

7.—(1) If any person contravenes any of the foregoing provisions he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding

one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine, and such imprisonment, and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each district council shall enforce and execute the provisions of these regulations in its district.

(3) The requirements of section 47(3) of the Act (which requires notice to be given to the Department of Health and Social Services of intention to institute proceedings for an offence against any provisions of regulations relating to labelling, advertising or description of food) shall not apply as respects any proceedings instituted by a district council for an offence against any such provisions of these regulations.

Defences

8.—(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business and did not himself make, or cause to be made, any material alteration in the substance of that advertisement.

(2) Where, in any proceedings against the manufacturer of any miscellaneous additive for use as an ingredient in the preparation of food, or of any food having any miscellaneous additive in it or on it, the court is satisfied that an advertisement has been published in terms which could constitute an offence against these regulations, the manufacturer shall be guilty of such offence, unless he proves that he did not publish, and was not a party to the publication of, the advertisement.

Revocations

9. The regulations specified in the first column of Schedule 4 are hereby revoked to the extent specified in relation thereto in the third column of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 10th June 1981.

(L.S.) *S. W. McDowell*
Assistant Secretary